

Appl. No. 10/566,326  
Election With Traverse dated March 17, 2008  
Reply to Restriction Requirement of February 15, 2008  
Attorney Docket No. 4344-060126

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/566,326 Confirmation No. 3518  
Applicants : Haruhiko MURASE et al.  
Filed : January 27, 2006  
Title : Method of Producing Young Moss Seedlings, Method of  
Producing Moss Mat and Young Moss  
Art Unit : 1661  
Examiner : June Hwu  
Customer No. : 28289

MAIL STOP AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

ELECTION WITH TRAVERSE AND AMENDMENT

Sir:

This is in response to the Office Action dated February 15, 2008. A response was due March 15, 2008, which fell on a Saturday. Accordingly, this response is timely filed on Monday, March 17, 2008.

**Election with Traverse** begins on page 2 of this paper.

**Amendments to the Specification** begin on page 4 of this paper.

**Remarks** begin on page 6 of this paper.

I hereby certify that this correspondence is being electronically submitted to the United States Patent and Trademark Office on March 17, 2008.

\_\_\_\_\_  
Diane Paull  
(Name of Person Mailing Paper)

Diane Paull 03/17/2008  
Signature Date

## **ELECTION WITH TRAVERSE**

In the Office Action of February 15, 2008, the Examiner required a restriction to one of the following inventions:

Group I: Claims 1, 2 and 9-20, drawn to a product and a method of producing moss grown in nutrient solution containing phytohormone; and

Group II: Claims 3-8, drawn to a method of growing young moss seedlings in oxygen, photosynthetic active photon flux, temperature, and light/dark periods.

The Examiner asserted that the instant invention was found to have no special technical feature that defined over U.S. Patent No. 5,476,523 to Hiraoka.

Applicants hereby provisionally elect for further prosecution the invention of Group II, covering claims 3-8, drawn to a method of growing young moss seedlings in oxygen, photosynthetic active photon flux, temperature, and light/dark periods.

The Examiner stated that the inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

(a) The invention of Groups I-II was found to have no special technical feature that defined the contribution over the prior art of Hiraoka (U.S. Patent o. 5,476,523); and

(b) Hiraoka teach moss seedling and method of producing moss in liquid culture medium under light condition at temperature of 25°C (see Example 1).

Therefore, the Examiner concluded that the technical feature linking Groups I-II are not special over the prior art, and the Groups are not so linked under PCT Rule 13.1.

Applicants respectfully traverse the restriction requirement based on the following arguments.

Hiraoka discloses that the proliferation is started from a sterile system. Applicants assert that this method is impractical due to the time and trouble involved. This is the general methodology to proliferate plants. On the other hand, the present invention relates to growth from moss seedlings.

Hiraoka describes, in Example 1, that the seedlings were "charged together...into a flask...in which carbon dioxide was enriched to 1%". The present invention, on the other hand, requires oxygen or aeration.

Hiraoka basically describes a small-sized shaking culture of sterilized moss seedlings, while the present invention discloses proliferation preferable for mass production of moss seedlings over all the processes.

Accordingly, Hiraoka does not disclose or suggest the method of the present invention. The Examiner's reconsideration of claims 1-20 is respectfully requested.

Applicants hereby reserve the right to prosecute non-elected claims 1, 2 and 9-20 by way of a divisional application filed at a later time. Pursuant to 37 C.F.R. § 1.48(b), there is no change in inventorship as a result of this Election.